



Freshfields Bruckhaus Deringer US LLP

The Honorable Denny Chin
Daniel Patrick Moynihan
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MEMO ENDORSED

BY FACSIMILE

March 24, 2014

Re: *Securities and Exchange Commission v. Byers, et al.*,
Civil Action No. 08-Civ-7104 (DC)

Dear Judge Chin:

This letter is respectfully submitted on behalf of Timothy J. Coleman, receiver (“Receiver”) in the above-captioned case, to request approval of a five-year lease (the “Commerce Center Lease”) with Charter Communications, LLC (“Charter”) on certain property within the receivership located at 1850 Business Park Drive, Clarksville, Tennessee (the “Commerce Center Property”). (**Attachment A.**) Over the lease term, the Commerce Center Lease is expected to generate \$765,000 in revenue. More importantly, the lease will increase the value of the property and make it easier to sell. Thus, the Receiver believes that the lease is in the best interests of the receivership estate.

I. DISCUSSION

The Court has jurisdiction over the Commerce Center Property under 28 U.S.C. § 754, and has broad discretion and authority to approve the proposed Commerce Center Lease. *See* 2/21/14 Mem. Dec. (Dkt. No. 973). On August 11, 2008, the Court entered the first Order Appointing Temporary Receiver (Dkt. No. 2) in this matter, which was subsequently amended on September 11, 2008 (Dkt. No. 34) (the “Receiver Order”) and incorporated into the Court’s October 24, 2008 Order on Consent Imposing Preliminary Injunction (Dkt. No. 65). Pursuant to the Receiver Order, the Receiver was appointed to manage the Wextrust receivership estate and is authorized to “use, lease, sell, and convert into money” all assets in the receivership estate. Because the lease’s value exceeds \$750,000, the Commerce Center Lease requires the Court’s approval, consistent with the notice obligations outlined in the Receiver Order. (*Id.* at 8.)



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The Commerce Center Lease will benefit the receivership estate. The Commerce Center Lease is for a five-year term at a rate of \$12,750 per month with the option for a five-year renewal. Charter is an existing anchor tenant of the property and will be expanding its space under the new lease. If approved, the lease will result in continued cash flow for the receivership estate. More importantly, the lease will increase the attractiveness of the property to potential buyers who will have a predictable source of income upon which to rely from Charter, a creditworthy tenant. In late 2013, the Receiver hired CB Richard Ellis ("CBRE"), a real estate firm, to market and sell the Commerce Center Property. CBRE has advised the Receiver that renewing this lease will increase the value of the property and make it easier to sell.

The Receiver Order requires the Receiver to provide four days written notice of requests, such as approval of the Commerce Center Lease, to the individual defendants, the SEC, and all parties who have filed notices of appearance in this case. (Receiver Order at 8.) This letter has been sent to the individual defendants or their counsel, the SEC, and all counsel of record in this case and it will also be posted to the receivership website in satisfaction of the notice requirements in the Receiver Order. **Objections, if any, should be sent so as to be received by the Court and Receiver by 5:00 PM on Friday, March 28, 2014.**

II. CONCLUSION

Based on the foregoing, the Receiver respectfully requests that Your Honor so order this letter approving the Commerce Center Lease.

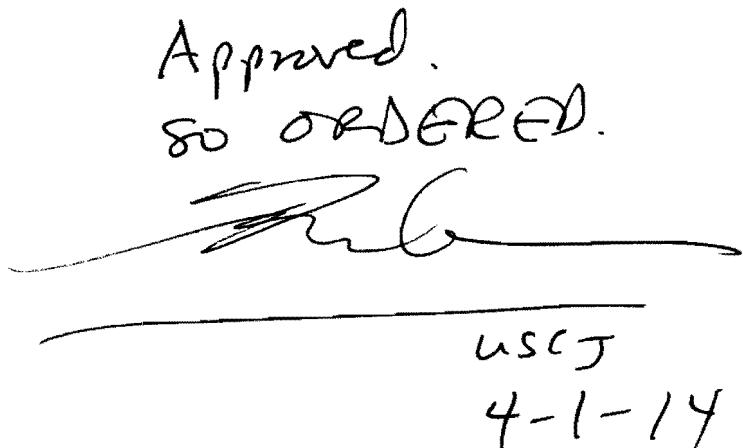
Respectfully,

A handwritten signature in black ink, appearing to read "Jonathan W. Ware".

Jonathan W. Ware
Counsel to the Receiver

Attachment

cc: Counsel of Record

A handwritten note in black ink. It starts with "Approved." on the first line, followed by "so ORDERED." on the second line. Below this is a signature that appears to read "R. C." A horizontal line extends from the end of the signature to the right. Below the line is the handwritten date "4-1-14".